

## **DRAFT FOR DISCUSSION**

### **Mining Joint Priority**

October 1, 2012 – October 1, 2020

**Objective:** Complete timely NPDES permit actions for metallic mining projects in Minnesota to address outstanding environmental issues, eliminate permit backlog, and issue permit decisions for existing and new mining operations.

**Statement of Problem/Issue:** Water quality permits for the metallic mining sector are critical to the protection of surface waters. These permits are often associated with economic development, are under increased public scrutiny, and involve complex permitting and water quality situations. As a result, NPDES permits for the metallic mining sector have a higher than average reissuance backlog and permit decisions for new or expanding facilities are often delayed. EPA and MPCA had previously established a joint priority on metallic mining which was focused on reducing the permit backlog in the mining sector. Little progress was made under that joint priority due to issues with implementation of the existing wild rice standard, new wild rice legislation, and other complexities associated with mining facilities. As a result a petition to withdraw MPCA's NPDES program was filed which alleges shortcomings in MPCA's permitting program related to mining facilities.

**Scope:** All new, expanding and existing metallic mining operations in Minnesota needing NPDES permits.

**Strategy:**

The metallic mining joint priority will include identification and prioritization of metallic mining permit projects, and improvements to the permitting process to assure timely NPDES permit decisions consistent with CWA requirements and elimination of the permit backlog. In addition the metallic mining joint priority will include a focussed effort on development and review of a revised wild rice water quality standard. EPA and MPCA agree to approach each interaction constructively and well prepared, minimize surprises and focus on joint problem solving.

#### **Permit Prioritization and Scheduling**

By October 1 of each year MPCA will provide a Metallic Mining Permit Priority List and Schedule consistent with elimination of the permit backlog by October 1, 2021. The list will include goals and performance measures for NPDES permit decisions for new and existing mining operations and is intended to result in reissuance of 5 permits per year in order to eliminate the backlog in addition to making timely permit decisions concerning NPDES applications for new metallic mining operations.

To maximize permit decision making and processing, EPA and MPCA will work jointly on process improvement activities throughout the term of the PPA. Process improvement activities will include but not be limited to, EPA/MPCA communications and collaboration, communications with external parties, and addressing tribal concerns.

EPA and MPCA will work together to address the most complex issues associated with permitting metallic mining facilities including but not limited to: acquisition of data; development of effluent limits in permits where pollutant(s) in the effluent causes, has reasonable potential to cause, or contribute to an excursion above a narrative criterion; identification of compliance points; development of compliance schedule requirements; development of monitoring requirements; and assurance that permit provisions are enforceable.

EPA and MPCA will work to adhere to established timeframes for decision making as set forth in the MOA

In the event of adoption of new water quality standards MPCA will make necessary adjustments to permitting procedures and permit review checklists used in the State's permit issuance process.

As process impediments are identified EPA and MPCA agree to expeditiously evaluate and resolve the impediment within a fixed period of time, which will be identified and agreed upon. If an impediment is not resolved in the established period it will be elevated to the Assistant Commissioner (MPCA) and Water Division Director (EPA) level for resolution.

#### **Water Quality Standards**

To maximize water quality standards decision making and processing, MPCA will develop thorough Technical Support Documents, Statements of Need and Reasonableness and responses to public comments to support MN's WQS adoption. EPA and MPCA will work together to facilitate timely review.

As process impediments are identified EPA and MPCA agree to evaluate and resolve the impediment within a fixed period of time, which will be identified and agreed upon. If an impediment is not resolved in the established period it will be elevated to the Assistant Commissioner (MPCA) and Water Division Director (EPA) level for resolution.